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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

In re L.D. et al., Persons Coming
Under the Juvenile Court Law.

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

M.D.,

Defendant and Appellant.

B291401

(Los Angeles County
Super. Ct. No. 18CCJP02204A-B)

APPEAL from orders of the Superior Court of Los Angeles County, Kim L. Nguyen, Judge. Affirmed.

Patricia G. Bell, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, Kristine P. Miles, Assistant County Counsel, and Peter Ferrera, Principal Deputy County Counsel, for Plaintiff and Respondent.

* * * * *

Father M.D. appeals the juvenile court's jurisdictional and dispositional orders for sons L.D. and D.D., who were four and seven years old at the time of their detention. Father contends substantial evidence does not support the court's jurisdictional findings under Welfare and Institutions Code section 300, subdivisions (a) and (b),¹ based on domestic violence between father and his girlfriend, J.B., drug use by father and J.B., and father's failure to care for the needs of the children. He also contends the order removing the children was not supported by substantial evidence. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

The family has a history of referrals to the Los Angeles County Department of Children and Family Services (Department). On September 14, 2016, the Department received a report of general neglect after a neighbor observed L.D., then a toddler, crossing the street alone. Mother J.D. was "passed out" and the house was a "disaster."² Father, who did not live in the home, came and picked up the children. The referral was substantiated but closed after father agreed to care for the children, and pursue custody in family court.

On October 19, 2017, the Department received an emotional abuse referral based on domestic violence between father and J.B. J.B. punched father, and he had bleeding bite marks on his chest, shoulder and back, scratches on his neck and back, and a large, aging bruise on his lower back. According to

¹ All further statutory references are to the Welfare and Institutions Code.

² Mother is not a party to this appeal, and is a nonoffending parent.

the police report, both children were present during the incident. J.B. admitted she punched father, but father denied it, and refused medical treatment or an emergency protective order. J.B. was not prosecuted because father refused to cooperate. When the Department interviewed D.D., he admitted that he saw J.B. push father.

The family again came to the attention of the Department in January 2018, following a referral that D.D., the seven-year-old, arrived at school wearing only shorts and a T-shirt, notwithstanding the cold winter weather. When J.B., picked up D.D. after school, she appeared to be under the influence of drugs, with an unsteady gait and unclear speech. The referring party also said D.D. had a peanut allergy, and the school had not been provided with an EpiPen. Moreover, D.D.'s former school had contacted his current school, and reported concerns that father and J.B. were abusing methamphetamines. J.B. told the reporting party that she and father were suffering from "financial difficulties" and were living at a motel.

Two days later, a Department social worker visited the motel where the family was staying. The social worker saw the children running around the motel parking lot, even though it was a school day. Father was sitting on the curb, using his phone, and told the children to "sit the f--k down" as they were playing. Once he noticed the social worker, father "became friendly and nurturing to his children."

The family had checked out of the motel that morning, and father was working on obtaining "DPSS cash aid" so they could stay another night. Father made arrangements for paternal grandmother to pick up the children and take them to school, but she had not arrived. Father relies on paternal grandmother for

transportation, as his car is unreliable. When he has access to a working vehicle, father makes money driving for Lyft and Grubhub.

The social worker offered father voluntary family reunification services to help provide some stability to the children, but father did not “want to resort to that just yet.”

J.B. admitted she had been psychiatrically hospitalized before, and suffered from anxiety and bipolar disorder. J.B. was disheveled, and had cuts on her arms. She had not taken her medication for a month because it made her feel like a “zombie.”

L.D., the four-year-old, spoke like a “baby” and could not provide a comprehensible statement to the social worker. He was very active, and had to have his hand held so he would not run into the street. He was loving and playful towards his brother and father.

D.D. had a big smile, and said that father, J.B., or paternal grandmother cared for him, and that he felt safe. He either slept at the motel or in the 7-Eleven parking lot. He admitted father and J.B. verbally fought in front of him and his brother, but denied any physical violence.

Both children had limited winter clothing, and were wearing shorts.

On January 23, 2018, the Department followed up with the children’s school. Father had been getting the children to school, but the children were absent that day. J.B. often picked up the children and behaved in an “odd manner,” consistent with methamphetamine use.

On January 25, 2018, the Department met with father and J.B. at their motel. D.D. was at school, and L.D. was walking with J.B. in the parking lot. J.B. denied any substance abuse.

According to father and J.B., the children had missed school due to transportation issues. Father had obtained the EpiPen from D.D.'s previous school, but had not given it to the new school. It had an expiration date of October 2016, well over a year earlier.

The social worker visited D.D. at school. He was wearing shorts and a sweatshirt. He had eaten pumpkin pie and milk from McDonald's before school. He reported that father does not hit him and that J.B. is "nice" and helps take care of him.

According to D.D.'s teacher, D.D. was making poor academic progress because he missed so much school. She often had to feed him because he came to school hungry. She had also obtained cold weather clothing she sent home with him.

The social worker waited for father to pick up D.D. from school. Father was an hour late. A Child and Family Team meeting was held, and father was offered after school care, and shelter and counseling referrals. Father stated he only needed after school care so he could obtain employment. Father denied having any addictions and refused to drug test.

In the following weeks, D.D. continued to miss school, and often arrived late and hungry. On February 13, 2018, the principal advised the Department he would have to call police because father had not picked up D.D. from school, even though the students had been dismissed over two hours earlier.

On February 22, 2018, the school principal reported that father had unenrolled the children the previous day. Father told the principal the family would be moving in with a relative in Hollywood, and that he obtained employment at the TCL Chinese Theater. He said the children would be attending school near Santa Monica Boulevard.

On April 2, 2018, the Department submitted a student tracer request for the Los Angeles Unified School District to locate the children. Although father had removed the children from their former school six weeks earlier, he still had not enrolled them in the district.

Between February 22, 2018 and April 3, 2018, the Department made several unsuccessful attempts to reach father. All the listed phone numbers for father had been disconnected. The Department also left messages for paternal relatives, to no avail.

On April 5, 2018, the Department filed a section 300 petition. The court issued protective custody warrants for the children, and detained them at large because their whereabouts were unknown.

On April 27, 2018, the Department contacted a charter school on Santa Monica Boulevard to inquire if the children were enrolled there. The principal confirmed that D.D. was a new student, and that father was considering enrolling L.D. in the preschool program. D.D. was absent that day. According to the principal, the family was receiving homeless services through a nonprofit organization. At a meeting with the school the day before, father and J.B. were “scattered,” “disheveled,” and appeared to be on drugs. The principal believed they were under the influence of “meth.”

On April 30, 2018, D.D.’s school called the Department to report that D.D. was at school that day. Department social workers retrieved him from school and placed him in foster care. When father went to school to pick up D.D., he was informed that the Department had taken D.D. into protective custody. The next day, father contacted the Department and agreed to bring L.D. to

Department offices that afternoon. Father, J.B., and L.D. did not arrive until 5:30 p.m. L.D. was placed in foster care with his brother.

D.D. was interviewed at Department offices on May 1, 2018. He was in good spirits, and reported that he was doing well in his foster placement, but was evasive when the social worker asked him questions about his daily life. He repeatedly responded, “ask my dad.”

Father admitted he used “meth” before the children were born. He told the Department he was “struggling” and “his problems with homelessness made it difficult to take care of the children’s daily needs.” He “kept losing . . . jobs because of the kids, or their behavior.” Father did not specify what behavioral issues the children had, and by all other accounts, the children were well behaved. Father appeared gaunt, “edgy,” and would not make eye contact.

Father claimed the 2017 domestic violence incident was “nothing” and that the “kids didn’t even see it.” He denied any physical violence between him and J.B. and repeatedly expressed his devotion to her. He blamed mother for the current situation, and took no responsibility for the Department’s involvement with the family, even though father kept mother from the children, and she had not seen them in over a year.

Although father denied he was under the influence of drugs, the social worker believed father was “coming off” a substance.

Father again rejected the Department’s offer of services, and refused to drug test without a court order, even after the social worker offered him a gas card so he could go to the testing location.

In an April 27, 2018 interview with the Department, the principal of one of D.D.'s former schools reported that D.D. often arrived at school hungry, and inappropriately dressed. Even though one of the teachers provided appropriate clothing to the family, D.D. never wore the clothes to school. The principal believed father and J.B. were "meth heads" and that D.D. "suffered a lot of neglect." The principal believed father and J.B. were "dealing meth" because they had walkie-talkies, and would loiter in a nearby park where there are drug users. Father also sometimes smelled of marijuana.

According to the office manager of D.D.'s former school, D.D. often wore the same clothes for days, arrived at school hungry, and was "never fed" before school. The school staff gave father food and clothes for the children, but the children never wore the clothing, with father explaining "they had to travel light." D.D. would not answer the school's questions about his life and what was going on, and appeared to have been coached by father.

D.D. had an IEP for speech or language impairment and needed speech therapy, but his poor attendance at school prevented him from receiving it. It was suspected that L.D. might be autistic.

D.D.'s school records showed that during the 2016 to 2017 school year, D.D. missed 42 out of 148 school days, and was tardy 29 days.

Meanwhile, the children adjusted well to their foster placement. They did not cry or ask for their father. However, when the foster father was helping D.D. try on some new pants at Target, D.D. asked if he had a camera, and patted down his pants, which the foster father found disturbing.

At the June 15, 2018 adjudication hearing, the juvenile court sustained allegations based on the October 2017 domestic violence incident; father's and J.B.'s drug use while caring for the children; and father's failure to provide for the children's basic needs. The case was continued for disposition.

A July 2018 last minute information for the court noted that father did not respond to the Department's phone calls and emails, although he did appear for a June 29, 2018 MAT assessment. He refused referrals for services, and refused to drug test without a court order. The Department was concerned that the children had been sexually abused as L.D. displayed poor boundaries, running up to strangers to give them hugs, and D.D. reported that someone named "Uncle Dan" took photos of him while he was bathing. According to a paternal relative, father and J.B. were living in a car, and J.B. seemed like she was "high."

At the July 17, 2018 dispositional hearing, the court removed the children from father, ordered that his visitation be monitored, that J.B. have no contact with the children, and that father participate in reunification services, including a full drug and alcohol program with aftercare, weekly random drug testing, and parenting classes.

Father filed a timely notice of appeal.

DISCUSSION

1. Jurisdiction

Father contends the jurisdictional findings are unsupported, arguing that domestic violence perpetrated by a non-parent is insufficient as a matter of law to support jurisdiction; a single, remote incident of domestic violence is insufficient to support jurisdiction; the evidence supporting the

drug use allegation was speculative; and there was no evidence father failed to provide for the children's basic needs.

We need not reach all of father's claims of error. We affirm jurisdiction if it is supported on any ground. (*In re Ashley B.* (2011) 202 Cal.App.4th 968, 979 ["As long as there is one unassailable jurisdictional finding, it is immaterial that another might be inappropriate."]; *D.M. v. Superior Court* (2009) 173 Cal.App.4th 1117, 1127 ["[T]he juvenile court's jurisdiction may rest on a single ground"]; *In re Jonathan B.* (1992) 5 Cal.App.4th 873, 875 [where one basis for jurisdiction is supported by substantial evidence, court does not need to consider sufficiency of evidence to support other basis].)

Section 300, subdivision (b)(1), authorizes a juvenile court to exercise dependency jurisdiction over a child if the "child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent . . . to adequately supervise or protect the child, or . . . provide the child with adequate food, clothing, [or] shelter . . . , or . . . the inability of the parent . . . to provide regular care for the child due to the parent's . . . substance abuse." (*Ibid.*) "The provision of a home environment free from the negative effects of substance abuse is a necessary condition for the safety, protection and physical and emotional well-being of the child." (§ 300.2.) "The paramount purpose underlying dependency proceedings is the protection of the child." (*In re Jason L.* (1990) 222 Cal.App.3d 1206, 1214.)

Substantial evidence supports the court's exercise of jurisdiction based on father's drug abuse and failure to provide for the children's basic needs. (See *In re Cole C.* (2009) 174 Cal.App.4th 900, 916.) Father admitted to a history of using

methamphetamine. Father arrived at D.D.'s school smelling of marijuana. Both he and J.B. appeared to be under the influence of drugs in front of numerous school officials and Department social workers. Father repeatedly refused to drug test, refused any services offered by the Department, and evaded the Department after it started its investigation. The family was unstable, frequently changing their living situation and schools, missing numerous school days. The children often wore inappropriate or dirty clothing, and D.D. was often hungry. There was evidence the children were exposed to domestic violence, to J.B.'s self-harm, alienated from their mother, and that they may have been sexually exploited.

These facts support a finding that father suffered from a substance abuse problem that severely affected his judgment, and his ability to care for the children. The juvenile court "need not wait until a child is seriously abused or injured to assume jurisdiction and take the steps necessary to protect the child." (*In re R.V.* (2012) 208 Cal.App.4th 837, 843.)

2. Disposition

Father contends the Department did not meet its burden of proof for removal of the children, and that there were reasonable means to protect the children, such as services or unannounced home visits.

A child may not be removed from a parent or guardian unless there is clear and convincing evidence of "substantial danger to the physical health, safety, protection, or physical or emotional well-being of the minor if the minor were returned home, and there are no reasonable means by which the minor's physical health can be protected without removing the minor from the minor's parent's [or] guardian's . . . physical custody."

(§ 361, subd. (c)(1).) A juvenile court's removal order is reviewed under the substantial evidence standard of review, notwithstanding the evidentiary standard used at trial. (*In re Heather A.* (1996) 52 Cal.App.4th 183, 193; see also *In re E.B.* (2010) 184 Cal.App.4th 568, 578.)

The facts described above are substantial evidence that supports removal of the children from father's care.

DISPOSITION

The orders are affirmed.

GRIMES, J.

WE CONCUR:

BIGELOW, P. J.

STRATTON, J.